SUNSHINE ORDINANCE TASK FORCE

City Hall
1 Dr Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TTD/TTY No. (415) 554-5227

ORDER OF DETERMINATION
October 31, 2017

DATE ISSUED
October 4, 2017

CASE TITLE – Ann Treboux v. Dwight Moore, Office of the City Attorney
(File No. 17077)

FACTS OF THE CASE

The following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

> File No. 17077: Complaint filed by Ann Treboux against Dwight Moore, Office of the City Attorney, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On August 15, 2017, the Education, Outreach and Training Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the SOTF for hearing.

> Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux discussed the submission of CDs as a document admissible in the court system and stated that she has not received the requested investigative notes. John Cote, Office of the City Attorney (Respondent), provided a summary of the department's response and stated that all responsive records in possession of the Office of the City Attorney have been provided. Mr. Cote acknowledged that the response to the request was late as the recipient of the email request was out of the office for over two weeks. Mr. Cote stated that an automatic response to incoming emails was sent to Ms. Treboux informing of the planned absence.

On October 4, 2017, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

> Ann Treboux (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Ms. Treboux stated that she has not received the "investigator's notes". There were no speakers in support of the Petitioner. John

Cote, Office of the City Attorney (Respondent), provided a summary of the department's position. Mr. Cote stated that Dwight Moore was out of the office at the time the request was received and provided proof that an out of office message was sent to Ms. Treboux. Mr. Cote stated that when the request for records was reviewed upon Mr. Moore's return to the office, a response was provided stating that there were no responsive records. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

The SOTF opined that central email account set up for public records requests should be monitored even if the custodian of records is out of the office and suggested that it is acceptable for individual email account users to refer members of the public to a specific person who can provide assistance.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that Dwight Moore, Office of the City Attorney, violated Administrative Code (Sunshine Ordinance), Section 67.25.

ORDER OF DETERMINATION

Member Eldon, seconded by Member Cannata, moved to find Dwight Moore, Office of the City Attorney, violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely manner.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, J. Wolf

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

c. John Cote, Office of the City Attorney (Respondent)
Ann Treboux (Petitioner)